

REMARKS**1. In the Drawings:**

The drawings were objected to because large cavity 65 was not depicted in the Figs. A new replacement drawing sheet showing reference number 65 added to Figs. 10 and 11 is hereby submitted.

As noted below, the term 'perimeter edge' is now recited in the Claim. Fig.10 has now been amended to indicate the two sections of the 'perimeter edge', denoted 12A, 12B, adjacent to the two tunnel cavities 18, 25 respectively.

2. In the Specification:

The Specification was objected to because on page 5, line 7, the first occurrence of "23" should be "22" and on page 7, line 21, the second occurrence of 'lid' should be "bottom". The above changes to the Specification include these changes.

3. In the Claims:

Claims 1 and 3-9 were objected to because of several informalities. In response, all of the informalities have been corrected.

Claims 1-18 were rejected under 35 U.S.C. Section 112, second paragraph as being indefinite. The Examiner present some additional language to overcome this rejection. In response, the proposed language has been added to Claims 1 and 14.

Claims 1, 9 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by Hyatt.

Claim 1, was rejected under 35 U.S.C. 102(b) as being anticipated by Washburn.

Claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by Hirose et al..

Claims 1, 4-7 and 8 were rejected under 35 U.S. C. 103(a) as being obvious based on

1 Hyatt in view of Simpson.

2 Claims 4 and 5 were rejected under 35 U.S.C. 103(a) as being obvious based on Hyatt
3 in view of Thalheimer.

4 Claims 1, 4-7, 12, 14, 15, and 17 were rejected under 35 U.S.C. 103(a) as being
5 obvious based on Simpson in view of Hyatt.

6 Claims 2, 3, and 13 were rejected under 35 U.S.C. 103(a) as being obvious based on
7 Simpson in view of Hyatt and further in view of Nelson et al.

8 Claims 8 and 9 were rejected under 35 U.S.C. 103(a) as being obvious based on
9 Simpson in view of Hyatt, and in view of Hight.

10 Claims 8 and 9 were rejected under 35 U.S.C. 103(a) as being obvious based on
11 Simpson in view of Hyatt, and in view of Hart or Wiemer.

12 Claims 10, 11, and 16 were rejected under 35 U.S.C. 103(a) as being obvious based on
13 Simpson in view of Hyatt, and in view of Hart or Miller.

14 In response, Claim 1 has been amended to recite the lid being pivottally attached to the
15 bottom member. This limitation was originally recited in Claim 2, which is hereby cancelled.
16 Claim 14 has been amended to recite two inside pest openings being aligned on the bottom
17 member so that views of the inside pest openings are unobstructed. This limitation has
18 originally recited in Claim 17 which is hereby cancelled.

19 Claims 7 and 9 have been amended to recite said holding tray being located centrally
20 on said bottom member and between said inner pest openings. Support for this new
21 language is found on Figs. 10 and 11.

22 1. The combination of Simpson in view of Hyatt and further in view of Nelson
23 do not meet the invention now recited in Claims 1 (Currently Amended) and 14 (Currently

1 amended).

2 Both Claims 1 and 14 have also been amended to recite that the bottom member is
3 substantially flat and that each said tunnel being defined by said tunnel cavity on said bottom
4 member and the ground surface. Claim 1 has also been amended to more clearly recite that
5 the bottom member also includes a section of the outer perimeter edge that is concave upward
6 and irregular thereby forming an outer pest opening into each ~~the~~ tunnel cavity. Support for
7 the new language in Claims 1 and 14 is found on page 3, lines 7, and page 4, lines 18, 19.
8 Support for the 'perimeter edge' language recited in Claim 1 is found on page 3, lines 10-13
9 and page 5, lines 5-7. The Applicant submits that Hyatt does not use a flat bottom member
10 with two tunnel openings being formed by the perimeter edge. Instead, it discloses a tub-like
11 bottom member with two tunnel openings molded into the tub's side wall.

12 The Applicant first points out that the limitation that Applicant's bottom member is
13 substantially flat is an important limitation that allows Applicant's pest trap to appear as a
14 rock. During use, the domed-shaped lid member is closed over the bottom member.
15 Because the bottom member is flat, it is visible when the trap is placed on the ground. The
16 appearance lid member dominates the overall of the trap.. In Hyatt, the bottom member is a
17 large, a tub-like structure with a circular lower surface and upward extending sidewalls.
18 Because the lid member is a flat, the overall appearance of the trap is dominated by the
19 bottom member. If the lid member is made to be rock-like in appearance as suggested by the
20 Examiner, the trap would still have the appearance of a tub.

21 An important feature disclosed in Hyatt is the curved, transversely aligned bridge used
22 to form two storage pockets on the opposite sides of the trap. The two storage pockets are
23 used in place of a bait station used in Simpson or a holding tray used in Applicant's invention.

1 The Applicant's submit that the bridge is an integral part of the trap and must accompany the
2 two tunnel cavities. If Hyatt's two tunnels are transferred to Simpson, the bridge must be
3 transferred as well because the only entrance into the trap is through the bridge.

4 The single hole formed on Hyatt's bridge is effective for terminating ants but less
5 effective for terminating rodents. As stated on page 5, line 15-17, the inventor believes that
6 rodents are more likely to enter the trap's large cavity if an alternative escape route such as
7 the second inner pest opening is viewable to the rodent. Because only one hole is provided
8 on Hyatt's trap, rodents are less likely to enter the trap. This same argument is true with
9 Simpson's trap that uses two door openings formed on opposite sides of the trap with two
10 vertical fences the obstruct their view.

11 The Applicant submits that none of the prior art references individually or when
12 combined disclose or suggest a pest trap recited in Claims 1 and 14. Neither Washburn,
13 Hirose et al, Simpson, Nelson, Hight, Hart, nor Wiemer discloses a trap with a substantially
14 flat bottom member with two tunnel cavities formed thereon that form two tunnels when then
15 the bottom member is placed on the surface of the ground. Also, none of these references nor
16 Hyatt disclose a pest trap with two tunnel cavities having two inside pest openings that lead
17 to an inner cavity. While it may be true that only Simpson discloses a dome-like lid member,
18 it does not disclose or suggest using two tunnel cavities on the bottom surface that create two
19 tunnels when the trap is placed on the ground. Further, no statement or suggestion can be
20 found in Simpson that indicates that the inventor was concerned with the appearance of the
21 two door openings on sides of the trap and how they affect the 'rock appearance' of the trap.
22 Also, no suggestion or disclosure is made in Simpson that indicates that the inventor was
23 aware of or concerned with pests being reluctant to enter a trap when an alternative escape

1 route is not visible. All of these issues and problems are addressed by Applicant's invention.

2 In rejecting Claim 2 as being obvious, the Examiner reasoned it would be obvious to a
3 person of ordinary skill to modify the two tunnel cavities of Simpson because a person skilled
4 in the art would be motivated because such tunnels would make it more difficult for spilled
5 bait to be removed from the bait station. The Applicant disagrees.

6 As noted above, Simpson discloses a trap with a dome-shaped top with two
7 removable doors that attached to two side door openings. The top is locked onto the flat
8 bottom. There are no openings on the flat bottom. Located just inside the side doors are two
9 vertical fences designed to create two inner pathways substantially parallel to the lids outer
10 sidewalls. Openings are formed in the two fences that limited access to a centrally located,
11 cylindrical shaped bait station.

12 Hyatt on the other hand discloses a bait station with a tub bottom and an adhesively
13 attached lid. Once bait is placed inside the bait station, the lid is permanently attached to the
14 tub. Formed centrally on the tub bottom is a raised bridge member with a single hole formed
15 therein. Two side tunnels are formed on the bottom member that lead to a cavity formed
16 under the raised bridge member.

17 The Applicant submits that it is physically impossible to combined the teachings in
18 Simpson and Hyatt in the manner suggested. As stated above, both Simpson and Hyatt are
19 two distinguishable traps used to trap different animals. The outside openings used on the
20 traps and the way the animals access bait once inside the trap are mutually exclusive and can
21 not be combined with altering the nature of the trap altogether.

22 The Applicant submits that the Examiner has merely using hindsight reasoning to find
23 obviousness. Merely because a suggested modification may be carried out, is not sufficient

1 reasoning for a finding obvious. There must be some logical reason for the suggested
2 modification. Why would a person of ordinary skill in the art be concerned with spilled bait
3 located under the trap when no hole is provided on the bottom surface of Simpson. Further,
4 since Hyatt's two tunnels are connected to a void spaced located under the bridge structure
5 and a single entrance hole is formed the bridge structure to provide access to the trap's center
6 cavity, such structures are incompatible with the flat bottom trap with a central bait station as
7 disclosed in Simpson.

8 2. Claim 17 recites limitations not found in the prior art references

9 Claim 17 was rejected under 35 U.S.C. 103(a) as being obvious based on Simpson in
10 view of Hyatt. Claim 17 cancelled and now added Claim 14, recited two inside pest openings
11 formed on the bottom member that are aligned on the bottom member so that view of each
12 pest opening is unobstructed. Support for this language is found on page 5, lines 11-17).
13 Neither Simpson nor Hyatt disclose a pest with two inner pest openings formed on the
14 bottom member. Therefore, even if the suggested modification were carried out, the resulting
15 device would not meet the invention recited in Claim 14 (Currently Amended).

16 For all of the above reasons, all of the elements recited in Claims 1 and 14 are not met
17 when the prior art references are considered individually or when combined with the other
18 cited references. As such, the Applicant respectfully requests reconsideration of pending
19 claims of record.
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Respectfully submitted,



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